

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK SHEFFIELD, JR.,

Plaintiff,

CIVIL ACTION NO. 05-CV-11850-DT

vs.

DISTRICT JUDGE NANCY G. EDUMUNDS

COMMISSIONER OF
SOCIAL SECURITY,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

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REPORT AND RECOMMENDATION

RECOMMENDATION: This Court recommends that Plaintiff's Complaint be
DISMISSED for failure to prosecute.

This is an action for judicial review of Defendant's decision denying Plaintiff's application for Social Security benefits. The complaint was filed on April 20, 2006. (Docket # 1). On May 2, 2006 the Court entered an Order granting Plaintiff's Application to Proceed In Forma Pauperis and further ordered that Plaintiff arrange for service of the complaint. (Docket # 4). Pursuant to Federal Rules of Civil Procedure Rule 4 service of the summons and complaint is to be made within 120 days. After 120 days had passed, the Court issued an Order directing Plaintiff to show cause within seven days why his complaint should not be dismissed for failure to make service of the summons and complaint. (Docket # 5). To date, Plaintiff has not responded to the Court's Order to Show Cause and the court docket reflects

that Plaintiff has still not served the complaint. Accordingly, it is recommended that Plaintiff's complaint be **DISMISSED** for failure to prosecute.

Either party to this action may object to and seek review of this Report and Recommendation, but must act within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing objections which raise some issues but fail to raise others with specificity will not preserve all objections that party might have to this Report and Recommendation. *Willis v. Secretary*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Rule 72.1(d)(2) of the *Local Rules of the United States District Court for the Eastern District of Michigan*, a copy of any objection must be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than five (5) pages in length unless by motion and order such page limit is extended by the Court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

Dated: December 12, 2006

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

Proof of Service

I hereby certify that a copy of this Report and Recommendation was served upon Frank Sheffield, Jr. and Counsel of Record on this date.

Dated: December 12, 2006

s/ Lisa C. Bartlett

Courtroom Deputy